

UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Avi Penner et al.	Examiner: BUDD, Mark Osborne
Appln. No.: 10/638,405	Group Art Unit: 2834
Filing Date: August 12, 2003	Confirmation No.: 5158
Title: DEVICES AND INTRABODY DELIVERY OF MOLECULES AND SYSTEMS AND METHODS UTILIZING SAME	Customer No.: 42074
	Docket No.: 32469 - 361727

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

I CERTIFY THAT THIS PAPER (ALONG WITH ANY REFERRED TO AS BEING ATTACHED OR ENCLOSED) IS BEING TRANSMITTED TO THE COMMISSIONER FOR PATENTS, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450 ON MARCH 13, 2008, VIA THE USPTO-EFS-WEB FILING SYSTEM.

/JoRae M. Stockdale/
JoRae M. Stockdale

Petition To Correct Priority Claim Under 37 CFR § 1.78(a)(3)

Pursuant to 37 CFR § 1.78(a)(3), Applicant hereby petitions to correct the priority claim in the above-referenced patent application. Accompanying this request is a Supplemental Preliminary Amendment along with a \$1,410 petition fee under 37 CFR § 1.17(t). The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 06-0029 and notify us of the same.

The facts and circumstances supporting this petition are as follows:

On August 12, 2003 Applicant's prior legal counsel, G.E. Ehrlich Ltd., filed the above-referenced patent application. In paragraph 1 of the application under the "Related Applications" section, Applicant's prior counsel asserted that the current application claims priority to then co-pending U.S. Application Serial No. 10/235,968 (now U.S. Patent No. 6,720,709). A copy of the first page of the application showing this claim to priority is attached hereto as Exhibit A.

On or about December 25, 2003, Applicant's prior legal counsel submitted a "Request for Corrected Filing Receipt" attempting to correct the priority claim indicated in the Filing

Receipt mailed on November 7, 2003. Accompanying this request was a copy of the first page of the application along with the executed Declaration. A copy of this request (including supporting documents) is attached hereto as Exhibit B.

On February 2, 2004, a “Response To Request For Corrected Filing Receipt” was mailed to Applicant’s prior legal counsel indicating that the continuity claimed under 35 U.S.C. § 120 cannot be added to the Filing Receipt without the Applicant supplying the relationship in an Application Data Sheet or amendment to the first page of the application. A copy of this response is attached hereto as Exhibit C.

On or about September 6, 2004, Applicant’s prior legal counsel submitted a “Renewed Request For Corrected Filing Receipt” again requesting correction of the priority claim indicated in the Filing Receipt. A copy of this document is attached hereto as Exhibit D.

On September 27, 2004, a second “Response To Request For Corrected Filing Receipt” was mailed to Applicant’s prior legal counsel again indicating that the continuity claimed under 35 U.S.C. § 120 cannot be added to the Filing Receipt without the Applicant supplying the relationship in an Application Data Sheet or amendment to the first page of the application. A copy of this response is attached hereto as Exhibit E.

On or about April 28, 2005, Applicant’s prior legal counsel submitted another “Renewed Request For Corrected Filing Receipt” again requesting correction of the priority claim indicated in the Filing Receipt. Accompanying this request was a “Preliminary Amendment” which amended the “Related Applications” section of the application to indicate that the application claims benefit from co-pending U.S. Application Serial No. 10/235,968. A copy of the second “Renewed Request” along with the Preliminary Amendment are attached hereto as Exhibit F.

From a review of the electronic file history, it appears that the USPTO did not respond to Applicant’s last request to correct the priority claim in the application.

With this Petition, Applicant has submitted a Supplemental Preliminary Amendment amending the priority data under the “Related Applications” heading contained on the first page of the application. In particular, Applicant has amended the specification to indicate

that the current application is a continuation-in-part of U.S. Application Serial Number 10/235,968. Applicant requests that this amendment be entered and a corrected filing receipt indicating the priority data as set-forth therein be issued.

Based on this amendment, the priority data for the Filing Receipt should indicate the following claim to priority:

This Application is a continuation of U.S. Application Serial Number 09/930,455, filed August 16, 2001, now abandoned. This Application is also a continuation-in-part of U.S. Application Serial Number 10/235,968, filed September 6, 2002, now U.S. Patent No. 6,720,709, which is a continuation of U.S. Application Serial Number 09/691,887, filed October 20, 2000, now U.S. Patent No. 6,504,286, which is a continuation of U.S. Application Serial Number 09/000/553, filed December 30, 1997, now U.S. Patent No. 6,140,740, all of which are incorporated by reference herein in their entireties.

Applicant submits that the entire delay between the date the priority claim was due under 37 CFR § 1.78(a)(ii) and the date the claim was filed was unintentional. In support of this assertion, Applicant submits that an attempt to correct the priority claim was made shortly after the mailing of the Filing Receipt. In addition, further attempts were made to correct the priority claim, the last of which was never responded to by the USPTO.

Accordingly, Applicant requests correction of the priority claim and the issuance of a corrected filing receipt in due course. If you have any questions regarding this petition, please do not hesitate to contact the undersigned.

Respectfully submitted,

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Dated: March 13, 2008